



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt 1) resolution accepting Certificate of Sufficiency of Petition for the Fire and Facilities Sales Tax Initiative submitted by John E. Johnson representing Lodi Citizens *for Public* Facilities; and 2) resolution to place the measure on the ballot for the November 7, 2006, General Municipal Election

MEETING DATE: April 6, 2005

PREPARED BY: City Clerk

RECOMMENDED ACTION: That the City Council adopt 1) resolution accepting Certificate of Sufficiency of Petition for the Fire and Facilities Sales Tax Initiative submitted by John E. Johnson representing Lodi Citizens *for Public* Facilities; and 2) resolution to place the measure on the ballot for the November 7 2006, General Municipal Election

BACKGROUND INFORMATION: On August 31, 2004, John E. Johnson representing Lodi Citizens *for Public* Facilities filed an intention to circulate a petition, which was accompanied by the text of the initiative (see Exhibit A to *staff report*). On March 8, 2005, the petition was filed in the City Clerk's Office, and a prima facie check was conducted in accordance with Elections Code §9210. Subsequently, the San Joaquin County Registrar of Voters conducted a full check examination of the petition and determined the number of valid signatures to be 3,408, which was more than the 2,706 (*i.e. 10% of the voters of the city*) required signatures to qualify. The Registrar's certification of the petition is attached as an exhibit to the City Council resolution accepting the Certificate of Sufficiency. In accordance with Elections Code §9114, the City Clerk hereby certifies the results of the examination to the City Council.

Elections Code §9215 states in part that if the initiative petition is signed by not less than 10 percent of the voters of the city, the legislative body shall do one of the following:

- (a) Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented. NOTE: This is **NOT** an option in this case, as the enactment **of** special taxes requires a two-thirds vote **of** voters voting in an election on **the tau**.
- (b) Submit the ordinance, without alteration, to the voters. The election for a municipal initiative that qualifies pursuant to Section 9215 shall be held at the jurisdiction's next regular election.
- (c) Order a report at the regular meeting at which the certification of the petition is presented (see Exhibit B to *staff report*). When the report is presented to the legislative body, the legislative body shall order an election pursuant to subdivision (b).

APPROVED:


Blair King, City Manager

Adopt 7) resolution accepting Certificate of Sufficiency of Petition for the Fire and Facilities Sales Tax Initiative submitted by John E. Johnson representing Lodi Citizens for Public Facilities; and 2) resolution to place the measure on the ballot for the November 7, 2006, General Municipal Election
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FISCAL IMPACT: \$5,593.75 was expended for the cost of petition signature examination by the San Joaquin County Registrar of Voters, and it is estimated to cost between \$5,000 to \$10,000 to place the measure on the November 7, 2006, ballot.

FUNDING: None required at this time.


Susan J. Blackston
Susan J. Blackston
City Clerk

SJB/jmp

Attachments

EXHIBIT A

FIRE AND FACILITIES SALES TAX INITIATIVE (Text of Proposed Ordinance)

AN ORDINANCE OF THE CITY OF LODI IMPOSING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION AND ADDING CHAPTER 3.09 TO THE LODI MUNICIPAL CODE

THE PEOPLE OF THE CITY OF LODI DO ORDAIN AS FOLLOWS:

SECTION 1. The Lodi Municipal Code is hereby amended by the addition of Chapter 3.09, which shall read as follows:

3.09.010 Title and Effect

This chapter shall be known as the Lodi Transactions and Use Tax Ordinance. This chapter shall be applicable in the incorporated territory of the City of Lodi ("City"). This chapter shall complement, and not replace or supersede, the City's existing sales and use tax, as such tax is described in Chapter 3.08 of the Municipal Code.

3.09.020 Operative Date

As used in Chapter 3.09, "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this chapter. If this chapter is approved by the voters at the March 2005 election, the operative date shall be July 1, 2005.

3.09.030 Purpose

This chapter is adopted to achieve the following, among other purposes, and the City Council directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose retail transactions and use tax regulations in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code if two thirds of the electors voting on the measure vote to approve the imposition of the tax at a special election called for that purpose.
- B. To adopt retail transactions and use tax regulations that incorporate provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.
- C. To adopt retail transactions and use tax regulations that impose a tax and provide a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.
- D. To adopt retail transactions and use tax regulations that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

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3.09.040 Expenditure Plan

- A. The Expenditure Plan is designed to ensure that the City accomplishes the specific projects listed below with the revenue generated from the transactions and use tax. The revenue from the transactions and use tax shall be expended on these specific projects in the following order of priority:
 - 1. Placing paramedics on fire engines in Lodi (up to \$700,000 per year for six years);
 - 2. Design and construction of Fire Station #5, which shall be located in the southeast portion of Lodi (up to \$2,000,000);
 - 3. Construction of the Lodi Aquatics Center (up to \$9,000,000);
 - 4. Design and construction of a replacement for Fire Station #2, which shall be located in the eastern portion of Lodi (up to \$2,000,000);
 - 5. Construction of a downtown indoor sports center (up to \$9,000,000); and
 - 6. Maintenance and operation of the facilities above (up to \$1,500,000).
- B. Once the City has collected revenue from this transactions and use tax in the amount of \$700,000, it shall hire an appropriate number of paramedics and begin providing paramedic services on fire engines in the City within twelve months. Thereafter, subject to its ongoing duty to expend \$700,000 per year to fund paramedics pursuant to this Expenditure Plan, once the City collects the amount listed for each subsequent project it shall begin design or construction of the designated facilities within six months.
- C. The City Council shall appoint an advisory committee to ensure that the revenue from the transactions and use tax is spent in accordance with the actual terms and overall intent of this ordinance. The committee shall consist of five individuals and shall, at all times, include one member of Lodi Professional Firefighters Local 1225, one member of the Lodi City Swim Club, one member of the Lodi Sports Foundation, one member of the City Council, and one person selected at large by the City Council in its discretion. Each member of the advisory committee shall serve for a term of two years, which term may be renewed by the City Council. In the event of a vacancy on the committee, the City Council shall appoint an appropriate replacement member.
- D. If the City Council and the advisory committee both determine that the maximum dollar amount to be spent on one of more of these projects is insufficient to achieve the goals of this ordinance, the City Council may increase the maximum dollar amount for such project(s), provided that it first holds a noticed public hearing and makes specific findings that the increased expenditures for one or more projects is necessary to complete such project(s) in an effective manner and to fulfill the intent of this ordinance.
- E. If the City Council and the advisory committee both determine that the order of priority for these projects should be changed, the City Council may change the order of priority, provided that it first holds a noticed public hearing and makes specific findings that the change in the order of priority is in the best interests of the City and its residents.

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*FIRE AND FACILITIES SALES TAX INITIATIVE
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- F. Once revenue in the amounts listed above has been spent on the services and facilities included in each of these projects, any remaining revenue raised through this transactions and use tax shall be spent to help maintain such services and facilities.

3.09.050 Contract with State

Prior to the Operative Date of July 1, 2005, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of these transactions and use tax regulations; provided that, if the City shall not have contracted with the State Board of Equalization prior to the Operative Date, it shall nevertheless so contract and in such a case the Operative Date shall be the first day of the first calendar quarter following the execution of such a contract.

3.09.060 Transactions Tax Rate

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of .25% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the Operative Date of this chapter.

3.09.070 Place of Sale

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

3.09.080 Use Tax Rate

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the Operative Date of this chapter for storage, use or other consumption in said territory at the rate of .25% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.09.090 Adoption of Provisions of State Law

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.

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3.09.100 Limitations on Adoption of State Law and Collection of Use Taxes

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:
 - 1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;
 - 2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter.
 - 3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
 - 4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.09.110 Permit not Required

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

3.09.120 Exemptions and Exclusions

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

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1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
 2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:
 - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
 3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this chapter.
 4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the Operative Date of this chapter.
 5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- C. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this City of tangible personal property:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax regulations.
 2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or

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compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this chapter.
 4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the Operative Date of this chapter.
 5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
 6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
 7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.
- D. Any person subject to use tax under this chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.09.130 Amendments

All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code,

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and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter. Except as provided above and in Section 3.40.140, this chapter may be amended only by the voters pursuant to the provisions of Elections Code section 9217 and as provided by law.

3.09.140 Termination of Tax

The transactions and use tax imposed by this Chapter shall terminate ten years from the Operative Date.

3.09.150 Enjoining Collection Forbidden

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

SECTION 2. Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SECTION 3. Effective Date. After its adoption by the voters, this chapter shall be in full force and effect ten (10) days after the vote is declared by the legislative body, pursuant to the provisions of Elections Code sections 9217 and 15400 and as provided by law.

CALIFORNIA ELECTIONS CODE

9212. (a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 9214, or Section 9215, the legislative body may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:

- (1) Its fiscal impact.
 - (2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.
 - (3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.
 - (4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.
 - (5) Its impact on the community's ability to attract and retain business and employment.
 - (6) Its impact on the uses of vacant parcels of land.
 - (7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
 - (8) Any other matters the legislative body requests to be in the report.
- (b) The report shall be presented to the legislative body within the time prescribed by the legislative body, but no later than 30 days after the elections official certifies to the legislative body the sufficiency of the petition.

RESOLUTION NO. 2005-65

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI,
CALIFORNIA, ACCEPTING CERTIFICATE OF SUFFICIENCY OF
PETITION FOR THE FIRE AND FACILITIES SALES TAX INITIATIVE

WHEREAS, on March 8, 2005, the City Clerk's Office received an initiative petition from John E. Johnson representing Lodi Citizens *for* Public Facilities regarding a fire and facilities sales tax; and

WHEREAS, said petition must contain 2,706 valid signatures, which is 10% of the voters in the City of Lodi as last officially reported by the county elections office to the Secretary of State effective at the time the notice, title, and summary of the initiative was published (September 18, 2004); and

WHEREAS, the San Joaquin County Registrar of Voters has conducted an examination of the petition and determined it to be sufficient. In accordance with Elections Code §91 14, the City Clerk hereby certifies the results of the examination to the City Council as set forth in the attached Certificate of Sufficiency of Petition (marked Exhibit A).

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby accepts the Certificate of Sufficiency for the initiative petition submitted by John E. Johnson regarding a fire and facilities sales tax.

Dated: April 6, 2005

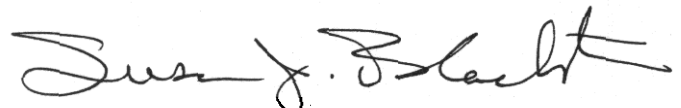
I hereby certify that Resolution No. 2005-65 was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 6, 2005, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Mounce, and
Mayor Beckman

NOES: COUNCIL MEMBERS – None

ABSENT COUNCIL MEMBERS – Hitchcock

ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON
City Clerk



**SAN JOAQUIN COUNTY
REGISTRAR OF VOTERS**

DEBORAH S. HENCH
REGISTRAR OF VOTERS
209/468-3194
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AUSTIN G ERDMAN
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REGISTRATION
209/468-2890
**BUSINESS AND FINANCIAL
DISCLOSURE**
209/468-8942
CANDIDATE SERVICES
209/468-3191
PRECINCT OPERATIONS
209/468-2892

March 22, 2005

EXHIBIT A

Susan J. Blackston
City Clerk
city of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

Dear Ms. Blackston:

Pursuant to your request, this office has completed the verification of signatures on the City of Lodi Fire & Facilities Sales Tax Initiative Petition, delivered to our office on March 8, 2005.

I hereby confirm the verification of the above named petition is as follows:

Number of signatures filed:	4,431	
Number of signatures verified:	4,431	
Number of signatures found sufficient:	3,408	76.9%

Based upon the full check, the number of valid signatures is 3,408, which is **more than the 2,706 signatures** required to qualify. Therefore, the petition is certified as sufficient.

Very truly yours,

& —

DEBORAH S. HENCH
Registrar of voters

DSH:ev



Petition Result Breakdown

Lodi Sales Tax-Mar 2005

Fire & Facilities Sales Tax-Init City of Lodi

Signatures Required	2706		
Raw Count	4,431		
Sample Size	4,431	Percent of	Percent of
Sigs Checked	4,431	Sigs Checked	Sample Size
Sigs Not Checked	0		0.0%
Sigs Valid	3,408	76.9%	76.9%
Sigs Invalid	1,023	23.1 %	23.1 %
Duplicated	180	4.0 %	4.1 %
Non-duplicate Invalids	843	19.0%	19.0%

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	3,408	76.9 %
NotReg	Not Registered	300	6.8 %
OutOfDist	Out of District	269	6.1 %
Duplicate	Signed more than once	180	4.1 %
RegLate	Registered Late	4	0.1 %
RegDiffAdd	Registered at a Different Address	160	3.6%
CanIdntfy	Cannot Identify	20	0.5 %
NoResAdd	No ResidenceAddress Given	70	1.6%
NoSig	No Signature	2	0.0 %
PrintedSig	Printed Signature	10	0.2 %
SigNoMatch	Signatures Don't Match	1	0.0 %
WrongCnty	Page Filed in Wrong County	7	0.2 %

Petition																																																																																																					
<ul style="list-style-type: none"> #1003 Chldms Hospital Grant Program #1005 Elections Primaries #1007 Mental Health Services Etc. #1008 Overturn Health Care Coverage #1010 911 Emergency & Trauma Care Act #1015 3 Strikes #1016 Limitations Unfair Buss. Competition Laws #1020 Use of Authorized/King James Bible #1021 Stem Cell Research. #1027 Gaming Revenue Act of 2004 #1029 DNA Samples #1031 Local Gov. Funds & Revenues #1046 Tribal Gaming Compacts. Exclusive Gaming F City of Lodi/Retail City of Lathrop Res Growth City of Stkn Smart Growth City of Stockton Family Farmers Sponsored Greenbe City of Tracy Residential Growth Lodi Sales Tax-Mar 2005 Manteca 3.9% Residential Growth Ref. Against Ordinance 1713/City of Lodi Ref. Pet. Against Resolution NO. 03-0081 Stkn Greenbelt & Agricultural Lands Protect Int Tracy Hills Community Area Utility Tax Reduction-Solari and Di Serio 	<p>Petition Abbr: Lodi Sales Tax-Mar 2005</p> <p>Petition Name: Fire & Facilities Sales Tax Init City of Lodi</p> <p>Status: PENDING</p> <p>District: City Of Lodi</p> <table border="1"> <thead> <tr> <th>Details</th> <th>Statistics Summary</th> <th>Statistics Detail</th> <th>Management</th> <th>Time Management</th> </tr> </thead> <tbody> <tr> <td colspan="5">Values</td> </tr> <tr> <td>Raw</td> <td>4431</td> <td>Sigs Found Valid in Sample</td> <td>3408</td> <td></td> </tr> <tr> <td>Sample</td> <td>4431</td> <td>Sigs Withdrawn</td> <td>0</td> <td></td> </tr> <tr> <td>Num of Sigs</td> <td>4431</td> <td>Dup Sigs Found</td> <td>180</td> <td></td> </tr> <tr> <td>Num Not Checked</td> <td>0</td> <td>Other Invalid</td> <td>843</td> <td></td> </tr> <tr> <td></td> <td></td> <td>Sigs Found Not Valid in Sample</td> <td>1023</td> <td></td> </tr> <tr> <td colspan="5">Calculations</td> </tr> <tr> <td>Percent Of Valid =</td> <td>Number Found Valid/Number in Sample</td> <td></td> <td>76.8%</td> <td></td> </tr> <tr> <td>Uncorrected Total Valid =</td> <td>Raw Count * Percent of Valid</td> <td></td> <td>3407</td> <td></td> </tr> <tr> <td>Duplicate Signature Factor =</td> <td>Raw Count/Sample Size</td> <td></td> <td>1</td> <td></td> </tr> <tr> <td>Dup Sig Weight =</td> <td>Dup Sig Factor * (Dup Sig Factor - 1)</td> <td></td> <td>0</td> <td></td> </tr> <tr> <td>Dup Sig Adjustment =</td> <td>Dup Sig Weight * Number of Dup Sigs</td> <td></td> <td>0</td> <td></td> </tr> <tr> <td>Total Valid Based on the Sample =</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>Uncorrected Total Valid - Dup Sig Adjustment</td> <td></td> <td>3407</td> <td></td> </tr> <tr> <td colspan="5">Results</td> </tr> <tr> <td>Total Valid Based on the Sample</td> <td></td> <td></td> <td>3407</td> <td></td> </tr> <tr> <td>Required Valid</td> <td></td> <td></td> <td>3708</td> <td></td> </tr> <tr> <td>Minimum Required (95%)</td> <td></td> <td></td> <td>2570.7</td> <td></td> </tr> <tr> <td>Minimum Valid Required to Pass based on Sample (110%)</td> <td></td> <td></td> <td>2976.6</td> <td></td> </tr> </tbody> </table>	Details	Statistics Summary	Statistics Detail	Management	Time Management	Values					Raw	4431	Sigs Found Valid in Sample	3408		Sample	4431	Sigs Withdrawn	0		Num of Sigs	4431	Dup Sigs Found	180		Num Not Checked	0	Other Invalid	843				Sigs Found Not Valid in Sample	1023		Calculations					Percent Of Valid =	Number Found Valid/Number in Sample		76.8%		Uncorrected Total Valid =	Raw Count * Percent of Valid		3407		Duplicate Signature Factor =	Raw Count/Sample Size		1		Dup Sig Weight =	Dup Sig Factor * (Dup Sig Factor - 1)		0		Dup Sig Adjustment =	Dup Sig Weight * Number of Dup Sigs		0		Total Valid Based on the Sample =						Uncorrected Total Valid - Dup Sig Adjustment		3407		Results					Total Valid Based on the Sample			3407		Required Valid			3708		Minimum Required (95%)			2570.7		Minimum Valid Required to Pass based on Sample (110%)			2976.6	
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Petition

#1003 Chldrns Hospital Grant Program
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City of Lodi/Retail
City of Lathrop Res Growth
City of Stkn Smart Growth
City of Stockton Family Farmers Sponsored Greenbe
City of Tracy Residential Growth
Lodi Sales Tax-Mar 2005
Manteca 3.9% Residential Growth
Ref. Against Ordinance 1713/City of Lodi
Ref. Pet Against Resolution NO .03-0081
Stkn Greenbelt 8 Agricultural Lands Protect Int
Tracy Hills Community Area
Utility Tax Redudon-Solar1 and Di Serio

Petition Abbr: Lodi Sales Tax-Mar 2005

Petition Name: Fire & Facilities Sales Tax Init City of Lodi

Status: Passed

District: City Of Lodi

Details

Statistics Summary

Statistics Detail

Management

Time Management

	Value	% of Raw	% of Req
Pages Processed	53	100.0%	
Total Checked	4431	100.0%	163.7%
Uncorrected Valid	3407	76.9%	125.9%
Duplicate Adjustment	0		
Estimated Valid	3407	76.9%	125.9%

Minimum Required (95%)

2570.7

Minimum Required to Pass
Based on Sample (110%)

2976.6

Refresh Statistics

RESOLUTION NO. 2005-66

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI, CALIFORNIA,
GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION ON TUESDAY,
NOVEMBER 7, 2006, FOR THE SUBMISSION OF A PROPOSED ORDINANCE

WHEREAS, pursuant to authority provided by statute, a petition has been filed with the legislative body of the City of Lodi, California, signed by more than 10 percent of the number of registered voters of the City to submit a proposed ordinance relating to a fire and facilities sales tax; and

WHEREAS, the San Joaquin County Registrar of Voters examined the records of registration and ascertained that the petition is signed by the requisite number of voters and has so certified; and

WHEREAS, the City Council is authorized and directed by statute to submit the proposed ordinance to the voters.

NOW, THEREFORE, THE CITY COUNCIL ~~OF~~ THE CITY OF LODI, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to general law cities, there is ordered to be held in the City of Lodi, California, on Tuesday, November 7, 2006, a General Municipal Election for the purpose of submitting the following proposed ordinance:

Shall the ordinance establishing a ten-year one quarter cent transactions and use (sales) tax for the limited purpose of the implementation, construction, maintenance, and operation of the following prioritized projects: 1) placing paramedics on fire engines; 2) design and construction of Fire Station Number Five; 3) construction of the Lodi Aquatics Center; 4) design and construction of a replacement for Fire Station Number Two; and 5) construction of an Indoor Sports Center be adopted?	Yes
	No

SECTION 6. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 7. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form, and manner as required by law.

SECTION 8. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

Dated: April 6, 2005

I hereby certify that Resolution No. 2005-66 was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 6, 2005, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Mounce, and
Mayor Beckman

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Hitchcock

ABSTAIN: COUNCIL MEMBERS – None

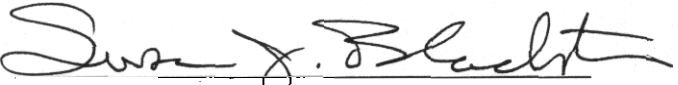

SUSAN J. BLACKSTON
City Clerk

EXHIBIT A

FIRE AND FACILITIES SALES TAX INITIATIVE (Text of Proposed Ordinance)

AN ORDINANCE OF THE CITY OF LODI IMPOSING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION AND ADDING CHAPTER 3.09 TO THE LODI MUNICIPAL CODE

THE PEOPLE OF THE CITY OF LODI DO ORDAIN AS FOLLOWS

SECTION 1. The Lodi Municipal Code is hereby amended by the addition of Chapter 3.09, which shall read as follows:

3.09.010 Title and Effect

This chapter shall be known as the Lodi Transactions and Use Tax Ordinance. This chapter shall be applicable in the incorporated territory of the City of Lodi ("City"). This chapter shall complement, and not replace or supersede, the City's existing sales and use tax, as such tax is described in Chapter 3.08 of the Municipal Code.

3.09.020 Operative Date

As used in Chapter 3.09, "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this chapter. If this chapter is approved by the voters at the March 2005 election, the operative date shall be July 1, 2005.

3.09.030 Purpose

This chapter is adopted to achieve the following, among other purposes, and the City Council directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose retail transactions and use tax regulations in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code if two thirds of the electors voting on the measure vote to approve the imposition of the tax at a special election called for that purpose.
- B. To adopt retail transactions and use tax regulations that incorporate provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.
- C. To adopt retail transactions and use tax regulations that impose a tax and provide a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.
- D. To adopt retail transactions and use tax regulations that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

EXHIBIT A

*FIRE AND FACILITIES SALES TAX INITIATIVE
Text of Proposed Ordinance
Page Two*

3.09.040 Expenditure Plan

- A. The Expenditure Plan is designed to ensure that the City accomplishes the specific projects listed below with the revenue generated from the transactions and use tax. The revenue from the transactions and use tax shall be expended on these specific projects in the following order of priority:
1. Placing paramedics on fire engines in Lodi (up to \$700,000 per year for six years);
 2. Design and construction of Fire Station #5, which shall be located in the southeast portion of Lodi (up to \$2,000,000);
 3. Construction of the Lodi Aquatics Center (up to \$9,000,000);
 4. Design and construction of a replacement for Fire Station #2, which shall be located in the eastern portion of Lodi (up to \$2,000,000);
 5. Construction of a downtown indoor sports center (up to \$9,000,000); and
 6. Maintenance and operation of the facilities above (up to \$1,500,000).
- B. Once the City has collected revenue from this transactions and use tax in the amount of \$700,000, it shall hire an appropriate number of paramedics and begin providing paramedic services on fire engines in the City within twelve months. Thereafter, subject to its ongoing duty to expend \$700,000 per year to fund paramedics pursuant to this Expenditure Plan, once the City collects the amount listed for each subsequent project it shall begin design or construction of the designated facilities within six months.
- C. The City Council shall appoint an advisory committee to ensure that the revenue from the transactions and use tax is spent in accordance with the actual terms and overall intent of this ordinance. The committee shall consist of five individuals and shall, at all times, include one member of Lodi Professional Firefighters Local 1225, one member of the Lodi City Swim Club, one member of the Lodi Sports Foundation, one member of the City Council, and one person selected at large by the City Council in its discretion. Each member of the advisory committee shall serve for a term of two years, which term may be renewed by the City Council. In the event of a vacancy on the committee, the City Council shall appoint an appropriate replacement member.
- D. If the City Council and the advisory committee both determine that the maximum dollar amount to be spent on one of more of these projects is insufficient to achieve the goals of this ordinance, the City Council may increase the maximum dollar amount for such project(s), provided that it first holds a noticed public hearing and makes specific findings that the increased expenditures for one or more projects is necessary to complete such project(s) in an effective manner and to fulfill the intent of this ordinance.
- E. If the City Council and the advisory committee both determine that the order of priority for these projects should be changed, the City Council may change the order of priority, provided that it first holds a noticed public hearing and makes specific findings that the change in the order of priority is in the best interests of the City and its residents.

EXHIBIT A

*FIRE AND FACILITIES SALES TAX INITIATIVE
Text of Proposed Ordinance
Page Three*

- F. Once revenue in the amounts listed above has been spent on the services and facilities included in each of these projects, any remaining revenue raised through this transactions and use tax shall be spent to help maintain such services and facilities.

3.09.050 Contract with State

Prior to the Operative Date of July 1, 2005, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of these transactions and use tax regulations; provided that, if the City shall not have contracted with the State Board of Equalization prior to the Operative Date, it shall nevertheless so contract and in such a case the Operative Date shall be the first day of the first calendar quarter following the execution of such a contract.

3.09.060 Transactions Tax Rate

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of .25% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the Operative Date of this chapter.

3.09.070 Place of Sale

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

3.09.080 Use Tax Rate

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the Operative Date of this chapter for storage, use or other consumption in said territory at the rate of .25% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.09.090 Adoption of Provisions of State Law

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.

EXHIBIT A

FIRE AND FACILITIES SALES TAX INITIATIVE
Text of Proposed Ordinance
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3.09.100 Limitations on Adoption of State Law and Collection of Use Taxes

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:
 - 1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California:
 - 2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter.
 - 3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or:
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
 - 4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.09.110 Permit not Required

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

3.09.120 Exemptions and Exclusions

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

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FIRE AND FACILITIES SALES TAX INITIATIVE
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1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
 2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:
 - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section **4000**) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section **21411** of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section **9840**) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
 3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this chapter.
 4. A lease of tangible personal property which is a continuing sale of such **property**, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the Operative Date of this chapter.
 5. For the purposes of subparagraphs (3) and **(4)** of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- C. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this City of tangible personal property:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax regulations.
 2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or

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FIRE AND FACILITIES SALES TAX INITIATIVE
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compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections **6366** and **6366.1** of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this chapter.
 4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the Operative Date of this chapter.
 5. For the purposes of subparagraphs (3) and **(4)** of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
 6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
 7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section **4000**) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section **21411** of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section **9840**) of the Vehicle Code. That retailer shall **be required to collect use tax** from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.
- D. Any person subject to use tax under this chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.09.130 Amendments

All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code,

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FIRE AND FACILITIES SALES TAX INITIATIVE
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Page Seven

and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter. Except as provided above and in Section 3.40.140, this chapter may be amended only by the voters pursuant to the provisions of Elections Code section 9217 and as provided by law.

3.09.140 Termination of Tax

The transactions and use tax imposed by this Chapter shall terminate ten years from the Operative Date.

3.09.150 Enjoining Collection Forbidden

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

SECTION 2. Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SECTION 3. Effective Date. After its adoption by the voters, this chapter shall be in full force and effect ten (10) days after the vote is declared by the legislative body, pursuant to the provisions of Elections Code sections 9217 and 15400 and as provided by law.

CITY COUNCIL

JOHN BECKMAN, Mayor
SUSAN HITCHCOCK,
Mayor Pro Tempore
LARRY D. HANSEN
BOB JOHNSON
JOANNE MOUNCE

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702
FAX (209) 333-6607
cityclrk@lodi.gov

BLAIR KING, City Manager
SUSAN J. BLACKSTON
City Clerk
D. STEPHEN SCHWABAUER
City Attorney

April 7, 2005

Deborah Hench
Registrar of Voters
P.O. Box 810
Stockton, CA 95201


**R E NOVEMBER 7, 2006, GENERAL MUNICIPAL ELECTION - MEASURE
RELATING TO FIRE AND FACILITIES SALES TAX**

Attached please find certified copies of the following resolutions pertaining to the November 7, 2006, General Municipal Election, which were adopted by the Lodi City Council at its April 6, 2005, regular meeting:

- Resolution of the City Council of the City of Lodi, California, accepting Certificate of Sufficiency of Petition for the Fire and Facilities Sales Tax Initiative; and
- Resolution of the City Council of the City of Lodi, California, giving notice of the holding of a General Municipal Election on Tuesday, November 7, 2006, for the submission of a proposed ordinance.

Should you have any questions regarding this matter, please feel free to give me a call.

Sincerely,



Susan J. Blackston
City Clerk

SJB/JMP

Enclosures

cc: San Joaquin County Board of Supervisors
John E. Johnson, representing Lodi Citizens for Public Facilities